



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF

**REGULATION CONCERNING
MEDICARE SUPPLEMENT PLANS
PURSUANT TO THE MEDICARE
ACCESS AND CHIP
REAUTHORIZATION ACT OF 2015.**

CAUSE NO. 17.0318
LCB FILE NO. R041-17

ORDER

The Nevada Division of Insurance (“Division”) seeks to promulgate regulations pertaining to Medicare supplement plans under the Nevada Administrative Code chapter 687B in order to maintain Nevada’s jurisdiction over the regulation of Medicare supplement plans. At a public hearing on the proposed regulation held on April 29, 2019, Jack Childress, Actuarial Analyst II, presented the regulation on behalf of the Division. This regulation is being promulgated pursuant to the Medicare Access and CHIP Reauthorization Act of 2015 (“MACRA”) in order for the State of Nevada to maintain regulatory oversight of Medicare supplement plans.¹ 42 U.S.C. § 1395ss.

Comments were received about two definitions in Sections 3 and 4—Section 3 adds the definition “newly eligible before January 1, 2020”, and Section 4 adds the definition “newly eligible on or after January 1, 2020”—which expressed concern that these definitions were confusing. Sections 3 and 4 used two different terms to define the same concept—when someone becomes eligible for Medicare. The Division agreed with the comments that having two separate definitions for the term “newly eligible” creates confusion. Moreover, MACRA only defines the term, “newly eligible”. As such, the Division is amending the regulation by consolidating these terms into the term “newly eligible” in the final regulation. The Division does not perceive such a consolidation of terms to be a substantive change.

¹ “No medicare supplemental policy may be issued in a State on or after [the date established under MACRA] unless--the State’s regulatory program . . . provides for the application and enforcement of the standards and requirements set forth in [MACRA]. . . .” 42 U.S.C. § 1395ss(a)(2).

1 Under the Nevada Administrative Procedure Act ("APA"), an agency must submit a copy
2 of the proposed regulation to the Legislative Counsel Bureau ("LCB") to examine the language
3 "so that it is clear, concise and suitable" for the Nevada Administrative Code. NRS 233B.063.1.
4 LCB is required to return the proposed regulation within 30 days. NRS 233B.063.2. Further,
5 "[a]n agency shall not adopt, amend or repeal a permanent regulation until it has received from
6 the Legislative Counsel the approved or revised text of the regulation in the form to be adopted."
7 NRS 233B.064.

8 Due to what has become an urgent matter given that insurance carriers have started filing
9 rates and forms for approval of Medicare supplement plans to be effective starting in January
10 2020, the Hearing Officer hereby continues this matter to give the Division an opportunity to re-
11 submit the regulation to LCB on an expedited basis for the statutorily imposed review.² As soon
12 as LCB decides whether the term consolidation is a substantive change, the Division must
13 promptly notify the Hearing Officer of LCB's determination in writing. Based on this
14 determination, the Hearing Officer will determine whether a second hearing is needed to comply
15 with the APA's rulemaking provisions. NRS 233B.061.2.

16 SO ORDERED this 2nd day of May, 2019.

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19 ALEXIA EMMERMANN
20 Hearing Officer
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26 ² It is noted that R041-17 was originally submitted to LCB on July 21, 2017. The Division
27 received the regulation back from LCB on October 24, 2017, then held a workshop on January 4,
28 2018. After the workshop, the Division returned the regulation to LCB on February 27, 2018,
for changes. The Division received the revision on or about March 12, 2019. Hence the request
now for expedited review by LCB.